

107TH CONGRESS
1ST SESSION

S. 306

To amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2001

Mr. TORRICELLI (for himself, Mr. HUTCHINSON, Mr. LIEBERMAN, Mr. SESSIONS, Mr. BREAUX, Mr. FRIST, Mr. MILLER, Mr. ENZI, Mr. GREGG, Mr. THOMPSON, Mr. HAGEL, Mr. BROWNBACK, Mr. SANTORUM, Mr. KYL, Mr. VOINOVICH, Mr. DEWINE, and Mr. CLELAND) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Coverdell Education Savings Accounts Act of 2001”.

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**
 5 **TIREMENT ACCOUNTS.**

6 (a) TAX-FREE EXPENDITURES FOR ELEMENTARY
 7 AND SECONDARY SCHOOL EXPENSES.—

8 (1) IN GENERAL.—Section 530(b)(2) (defining
 9 qualified higher education expenses) is amended to
 10 read as follows:

11 “(2) QUALIFIED EDUCATION EXPENSES.—

12 “(A) IN GENERAL.—The term ‘qualified
 13 education expenses’ means—

14 “(i) qualified higher education ex-
 15 penses (as defined in section 529(e)(3)),
 16 and

17 “(ii) qualified elementary and sec-
 18 ondary education expenses (as defined in
 19 paragraph (4)).

20 “(B) QUALIFIED STATE TUITION PRO-
 21 GRAMS.—Such term shall include any contribu-
 22 tion to a qualified State tuition program (as de-
 23 fined in section 529(b)) on behalf of the des-
 24 ignated beneficiary (as defined in section
 25 529(e)(1)); but there shall be no increase in the

1 investment in the contract for purposes of ap-
 2 plying section 72 by reason of any portion of
 3 such contribution which is not includible in
 4 gross income by reason of subsection (d)(2).”.

5 (2) QUALIFIED ELEMENTARY AND SECONDARY
 6 EDUCATION EXPENSES.—Section 530(b) (relating to
 7 definitions and special rules) is amended by adding
 8 at the end the following new paragraph:

9 “(4) QUALIFIED ELEMENTARY AND SECONDARY
 10 EDUCATION EXPENSES.—

11 “(A) IN GENERAL.—The term ‘qualified el-
 12 ementary and secondary education expenses’
 13 means—

14 “(i) expenses for tuition, fees, aca-
 15 demic tutoring, special needs services,
 16 books, supplies, computer equipment (in-
 17 cluding related software and services), and
 18 other equipment which are incurred in con-
 19 nection with the enrollment or attendance
 20 of the designated beneficiary of the trust
 21 as an elementary or secondary school stu-
 22 dent at a public, private, or religious
 23 school, and

24 “(ii) expenses for room and board,
 25 uniforms, transportation, and supple-

mentary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance.

“(B) SCHOOL.—The term ‘school’ means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.”.

(3) CONFORMING AMENDMENTS.—Section 530 is amended—

(A) by striking “higher” each place it appears in subsections (b)(1) and (d)(2), and

(B) by striking “HIGHER” in the heading for subsection (d)(2).

(b) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking “\$500” and inserting “the applicable dollar amount for the calendar year in which such taxable year begins”.

(2) APPLICABLE DOLLAR AMOUNT.—Section 530(b) is amended by adding at the end the following new paragraph:

“(4) APPLICABLE DOLLAR AMOUNT.—

“(A) IN GENERAL.—For purposes of paragraph (1)(A)(iii), the applicable dollar amount is \$2,000.

“(B) INFLATION ADJUSTMENT.—

“(i) IN GENERAL.—In the case of any taxable year beginning after 2002, the dollar amount referred to in subparagraph (A) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting ‘2001’ for ‘1992’.

“(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of \$50, such amount shall be rounded to the nearest multiple of \$50.”.

(3) CONFORMING AMENDMENT.—Section 4973(e)(1)(A) is amended by striking “\$500” and inserting “the applicable dollar amount for the calendar year in which such taxable year begins”.

1 (4) ELIMINATION OF THE MARRIAGE PENALTY
 2 IN THE REDUCTION IN PERMITTED CONTRIBU-
 3 TIONS.—Section 530(c)(1) (relating to reduction in
 4 permitted contributions based on adjusted gross in-
 5 come) is amended—

6 (A) by striking “\$150,000” in subpara-
 7 graph (A)(ii) and inserting “\$190,000”, and

8 (B) by striking “\$10,000” in subpara-
 9 graph (B) and inserting “\$30,000”.

10 (c) WAIVER OF AGE LIMITATIONS FOR CHILDREN
 11 WITH SPECIAL NEEDS.—Section 530(b)(1) (defining edu-
 12 cation individual retirement account) is amended by add-
 13 ing at the end the following flush sentence:

14 “The age limitations in subparagraphs (A)(ii) and
 15 (E) and paragraphs (5) and (6) of subsection (d)
 16 shall not apply to any designated beneficiary with
 17 special needs (as determined under regulations pre-
 18 scribed by the Secretary).”.

19 (d) ENTITIES PERMITTED TO CONTRIBUTE TO AC-
 20 COUNTS.—Section 530(c)(1) (relating to reduction in per-
 21 mitted contributions based on adjusted gross income) is
 22 amended by striking “The maximum amount which a con-
 23 tributor” and inserting “In the case of a contributor who
 24 is an individual, the maximum amount the contributor”.

25 (e) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

(1) IN GENERAL.—Section 530(b) (relating to definitions and special rules), as amended by subsection (b)(2), is amended by adding at the end the following new paragraph:

“(5) TIME WHEN CONTRIBUTIONS DEEMED MADE.—An individual shall be deemed to have made a contribution to an education individual retirement account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).”.

(2) EXTENSION OF TIME TO RETURN EXCESS CONTRIBUTIONS.—Subparagraph (C) of section 530(d)(4) (relating to additional tax for distributions not used for educational expenses) is amended—

(A) by striking clause (i) and inserting the following new clause:

“(i) such distribution is made before the 1st day of the 6th month of the taxable year following the taxable year, and”, and

(B) by striking “DUE DATE OF RETURN” in the heading and inserting “CERTAIN DATE”.

1 (f) COORDINATION WITH HOPE AND LIFETIME
 2 LEARNING CREDITS AND QUALIFIED TUITION PRO-
 3 GRAMS.—

4 (1) IN GENERAL.—Section 530(d)(2)(C) is
 5 amended to read as follows:

6 “(C) COORDINATION WITH HOPE AND
 7 LIFETIME LEARNING CREDITS AND QUALIFIED
 8 TUITION PROGRAMS.—For purposes of subpara-
 9 graph (A).

10 “(i) CREDIT COORDINATION.—The
 11 total amount of qualified higher education
 12 expenses with respect to an individual for
 13 the taxable year shall be reduced—

14 “(I) as provided in section
 15 25A(g)(2), and

16 “(II) by the amount of such ex-
 17 penses which were taken into account
 18 in determining the credit allowed to
 19 the taxpayer or any other person
 20 under section 25A.

21 “(ii) COORDINATION WITH QUALIFIED
 22 TUITION PROGRAMS.—If, with respect to
 23 an individual for any taxable year—

24 “(I) the aggregate distributions
 25 during such year to which subpara-

1 graph (A) and section 529(c)(3)(B)
 2 apply, exceed

3 “(II) the total amount of quali-
 4 fied higher education expenses (after
 5 the application of clause (i)) for such
 6 year,

7 the taxpayer shall allocate such expenses
 8 among such distributions for purposes of
 9 determining the amount of the exclusion
 10 under subparagraph (A) and section
 11 529(c)(3)(B).”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subsection (e) of section 25A is
 14 amended to read as follows:

15 “(e) ELECTION NOT TO HAVE SECTION APPLY.—A
 16 taxpayer may elect not to have this section apply with re-
 17 spect to the qualified tuition and related expenses of an
 18 individual for any taxable year.”.

19 (B) Section 135(d)(2)(A) is amended by
 20 striking “allowable” and inserting “allowed”.

21 (C) Section 530(d)(2)(D) is amended—

22 (i) by striking “or credit”, and

23 (ii) by striking “CREDIT OR” in the
 24 heading.

1 (D) Section 4973(e)(1) is amended by add-
 2 ing “and” at the end of subparagraph (A), by
 3 striking subparagraph (B), and by redesign-
 4 nating subparagraph (C) as subparagraph (B).

5 (g) RENAMING EDUCATION INDIVIDUAL RETIRE-
 6 MENT ACCOUNTS AS COVERDELL EDUCATION SAVINGS
 7 ACCOUNTS.—

8 (1) IN GENERAL.—

9 (A) Section 530 (as amended by the pre-
 10 ceding provisions of this section) is amended by
 11 striking “an education individual retirement ac-
 12 count” each place it appears and inserting “a
 13 Coverdell education savings account”.

14 (B) The heading for paragraph (1) of sec-
 15 tion 530(b) is amended by striking “EDU-
 16 CATION INDIVIDUAL RETIREMENT ACCOUNT”
 17 and inserting “COVERDELL EDUCATION SAV-
 18 INGS ACCOUNT”.

19 (C) The heading for section 530 is amend-
 20 ed to read as follows:

21 **“SEC. 530. COVERDELL EDUCATION SAVINGS ACCOUNTS.”.**

22 (D) The item in the table of contents for
 23 part VII of subchapter F of chapter 1 relating
 24 to section 530 is amended to read as follows:

“Sec. 530. Coverdell education savings accounts.”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) The following provisions are each
 2 amended by striking “an education individual
 3 retirement” each place it appears and inserting
 4 “a Coverdell education savings”:

5 (i) Section 25A(e)(2).

6 (ii) Section 72(e)(9).

7 (iii) Section 135(c)(2)(C).

8 (iv) Section 4973(a).

9 (v) Subsections (c) and (e) of section
 10 4975.

11 (B) The following provisions are each
 12 amended by striking “education individual re-
 13 tirement” each place it appears and inserting
 14 “Coverdell education savings”:

15 (i) Section 26(b)(2)(E).

16 (ii) Section 4973(e).

17 (iii) Section 6693(a)(2)(D).

18 (C) The headings for each of the following
 19 provisions are amended by striking “EDU-
 20 CATION INDIVIDUAL RETIREMENT ACCOUNTS”
 21 each place it appears and inserting “COVER-
 22 DELL EDUCATION SAVINGS ACCOUNTS”.

23 (i) Section 72(e)(9).

24 (ii) Section 135(c)(2)(C).

25 (iii) Section 4973(e).

1 (iv) Section 4975(c)(5).

2 (h) EFFECTIVE DATES.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), the amendments made by this section
5 shall apply to taxable years beginning after Decem-
6 ber 31, 2001.

7 (2) SUBSECTION (g).—The amendments made
8 by subsection (g) shall take effect on the date of the
9 enactment of this Act.

10 **SEC. 3. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS**

11 **CONTRIBUTED TO COVERDELL EDUCATION**

12 **SAVINGS ACCOUNTS.**

13 (a) IN GENERAL.—Part III of subchapter B or chap-
14 ter 1 of the Internal Revenue Code of 1986 (relating to
15 items specifically excluded from gross income) is amended
16 by redesignating section 139 as section 140 and by adding
17 at the end the following:

18 **“SEC. 139. COVERDELL EDUCATION SAVINGS ACCOUNTS.**

19 **“(a) EXCLUSION FROM GROSS INCOME.—**Gross in-
20 come of an employee shall not include—

21 **“(1)** amounts paid or incurred by the employer
22 for a qualified Coverdell education savings account
23 contribution on behalf of the employee or a member
24 of the employee’s family, and

1 “(2) any distribution from a Coverdell edu-
2 cation savings account of such contribution.

3 “(b) QUALIFIED COVERDELL EDUCATION SAVINGS
4 ACCOUNT CONTRIBUTION.—For purposes of this
5 section—

6 “(1) IN GENERAL.—The term ‘qualified Cover-
7 dell education savings account contribution’ means
8 an amount contributed, directly or indirectly, as part
9 of an education savings program by an employer to
10 a Coverdell education savings account established
11 and maintained for the benefit of the employee or a
12 member of the employee’s family.

13 “(2) EDUCATION SAVINGS PROGRAM.—For pur-
14 poses of paragraph (1), an education savings pro-
15 gram is a separate written plan of an employer for
16 the exclusive benefit of such employer’s employees—

17 “(A) under which the employer makes con-
18 tributions described in paragraph (1), and

19 “(B) which meets requirements similar to
20 the requirements of paragraphs (2), (3), (5),
21 and (6) of section 127(b).”.

22 (b) CONFORMING AMENDMENT.—The table of sec-
23 tions for part III of subchapter B or chapter 1 of the In-
24 ternal Revenue Code of 1986 is amended by striking the
25 item relating to section 139 and by inserting the following:

“Sec. 139. Coverdell education savings accounts.

“Sec. 140. Cross references to other Acts.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made in taxable
3 years beginning after December 31, 2001.

